

ATTORNEY DOCKET NO. ENFO01-00004 (PREVIOUSLY 107870.00012)
U.S. SERIAL NO. 09/775,042
PATENT

REMARKS

Claims 1-22, 30, 32, 33, 36, 37, 40, 42 and 43 are pending in the application.

Claims 1-22, 30, 32, 33, 36, 37, 40, 42 and 43 have been rejected.

Claims 1, 33, 36, 37, 40, 42 and 43 have been amended, as set forth herein, and reconsideration is respectfully requested.

I. INFORMATION DISCLOSURE STATEMENT (IDS) FILED JANUARY 25, 2005

The current Office Action included a copy of the previously submitted IDS form PTO/SB/08B with Examiner initials for all art cited therein, however, the form appears to show that the two non-patent publications listed thereon have been crossed off (or lined through, with the notation "not scanned" or something similar). Upon further review, it appears either the two non-patent publications were not scanned by the USPTO or copies were inadvertently omitted when the IDS form was filed on January 25, 2005. For the convenience of the Examiner, attached are copies of these two non-patent publications (previously listed in the January 25, 2005 IDS) for consideration by the Examiner.

II. REJECTION UNDER 35 U.S.C. § 103

Claims 1-22, 30, 32, 33, 36, 37, 40, 42 and 43 were rejected under 35 U.S.C. § 103 as being unpatentable over *Gershman, et al.* (6,356,905, hereinafter *Gershman*). The rejection is respectfully traversed.

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In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142, p. 2100-128 (8th ed. rev. 2 May 2004). Absent such a *prima facie* case, the applicant is under no obligation to produce evidence of nonobviousness. *Id.*

To establish a *prima facie* case of obviousness, three basic criteria must be met: First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *Id.*

Amended independent Claims 1, 33, 36, 37, 40, 42 and 43 each recite that one device receives a wireless data packet from another device and employs data within that packet to generate a display on the one device for a software application executing on the other device. These claims also recite that the two devices perform wireless transmissions to one another simultaneously. Such a combination of features has not been found to be taught or suggested in Gershman.

Accordingly, the Applicant respectfully requests withdrawal of the § 103 rejection of Claims 1-22, 30, 32, 33, 36, 37, 40, 42 and 43.

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III. CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

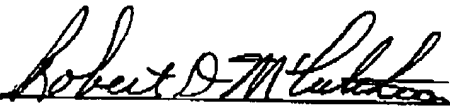
If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at rmccutcheon@davismunck.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

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